

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-14255-2021 (O&M)

Date of Decision: 06.09.2021

Bhanu Partap Singh & Ors.

... Petitioners

VS.

State of Punjab & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. RS Bains, Sr.Advocate with
Mr. Loveneet Thakur, Advocate for the petitioners

Ms. Anu Chatrath Kapur, Addl. AG Punjab

GIRISH AGNIHOTRI, J. (Oral)

(1) The matter has been taken up through video conferencing on account of restrictions due to outbreak of COVID-19 pandemic.

(2) Petitioner Bhanu Partap Singh and 3 others have filed the present writ petition, *inter alia*, with a prayer to declare the result of Basic Proficiency Test (BPT) of Intelligence Cadre for all the 46 vacancies/posts of Head Constables in accordance with Rules/instructions by which 25% of the notified vacancies are to be filled up through lower school course. Accordingly a direction is prayed for to revise the result of BPT 2021 Intelligence Cadre.

(3) Record shows that this Court on 10.08.2021 passed the following order:-

On 30.07.2021, this Court had passed the following order:-

"Petitioners-Bhanu Partap Singh and 3 others have jointly filed the present writ petition inter alia with a prayer for directing to the respondents to declare the result of basic proficiency test of intelligence cadre for all the 46 vacancies/posts of Head Constable along with further relief as mentioned in the petition.

Learned Senior counsel for the petitioners submits that there were total 185 seats notified for the lower school course which is going to commence in first week of August 2021. As per order dated 29.08.2012 (Annexure P-1), 25% seats are to be filled up by way of BPT test. He, accordingly, submits that 25% of 185 seats would be 46 seats, where as the result has only been declared of 42 seats, the petitioners are stated to be on the waiting list.

Notice of motion.

On asking of the Court, Mr. Ayush Sarna, Asst. A.G., Punjab accepts notice on behalf of respondent-State.

Considering the urgency in the matter, respondents are directed to file a short affidavit (explaining as to why petitioners cannot be accommodated in the course) within 6 days with an advance copy to the counsel for the petitioner.

List on 06.08.2021.”

Learned Senior counsel, by making reference to the pleadings has briefly given the facts as under.

Vide memo dated 27.03.2021 (Annexure P-2/T), on the subject 'Allotment of seats for Lower School Course to different wings during the year 2021-22', the Office of Director General of Police, Punjab, had allocated 185 seats to the Intelligence Wing as per the demand of seats.

Vide Office Order dated 29.08.2012 (Annexure P-1), as per the learned Senior counsel for the petitioner, the Director General of Police, Punjab, had clarified regarding promotion to the rank of Head Constable that 90% promotions shall be done from the list C-I and 10% from list C-II. Importantly, he submits that in point No.2 of the said order, it was clarified that admission to Lower School Course, would be from following three channels:-

(a) 25% by way of Basic Proficiency Test (BPT)

(b) 70 % would be by way of seniority and

(c) 5% by way of special achievement in the field of Sports quota.

It is then submitted that the petitioners belong to 25% quota as mentioned above and therefore out of 185 seats, 46 were required to be given to their quota. He submits that

names of 42 persons have only been declared, who would undergo the Lower School Course which is going to commence next week. As per the information, all the petitioners are kept at Sr. Nos.1 to 4 in the waiting list (Annexure P-4 colly).

Short reply by way of affidavit of Shri Satinderpal Singh, has been filed on behalf of respondents No.1 to 4. In the reply, the respondents have inter alia taken the stand that when the officials are to be allocated to Lower School Course, 10% seats out of 185, are to be reduced.

Learned Senior counsel, by making reference to para 2 of the rejoinder, filed by the petitioners to the reply/affidavit dated 04.08.2021, submits that as is evident from the letter dated 27.03.2021 (Annexure P-2), which is also clear from the subject, the number of 185 seats allocated to Intelligence Wing for allotment of seats for Lower School Course is already finalized. He submits that from 185 seats, 10% cannot be deducted. To support this, he refers to the memo dated 18.02.2021 (Annexure P-8), wherein, it was depicted that from a total of 939 Head Constables posts, which will be available on 31.03.2022, 94 posts are to be filled up as per the promotion list C-II under 10% quota and remaining 845 are to be filled through the staff passing the Lower School Course. Faced with the above situation, learned State counsel prays for a short accommodation to seek appropriate instructions and file a short affidavit in this regard.

In addition to the above, this Court deems it appropriate to issue following directions:-

(i) Additional Director General of Police, Intelligence Wing, Punjab i.e. respondent No.3, is directed to clarify as to how many vacant posts of Head Constables are there with the Intelligence Wing, as on 27.03.2021 and also on 31.03.2022.

(ii) Respondent No.3 is directed to clarify as to on which date, prior to 27.03.2021, requisition for allocation of seats was sent by its office for allotment of seats for Lower School Course during the year 2021.

(iii) It be specifically clarified by respondent No.3 as to if their demand is for complete 185 seats, to be allocated to Intelligence Wing for Lower School Course during the year

2021, commensurate with the vacancies of Head Constable or as to if there are total 185 vacancies of Head Constable and accordingly 10% vacancies are to be deducted from 185 to accommodate candidates from C-II category.

(iv) The respondents are also directed to clarify as to what is the position being followed by other wings i.e. as to if demand/requisition when sent to the DGP Office is after deducting 10% vacancies or is inclusive of 10% of vacancies.

(v) The position be clarified as to how the respondents reconcile their stand in the short affidavit dated 04.08.2021, vis-a-vis the memo dated 18.02.2021 (Annexure P-8).

List on 17.08.2021.”

(4) In response thereto, an affidavit of Sh. Satinderpal Singh, Assistant Inspector General of Police, HQ, Intelligence has been filed on behalf of respondents No.1 to 4 dated 17.08.2021. In this affidavit, it has been clarified that as on 31.03.2022, there are 193 total vacant posts of Head Constables in the Intelligence Wing.

(5) It has also been clarified that following the practice prevalent in the other Wings, the Intelligence Wing too had to deduct 10% of the vacancies out of the total vacancies before sending the requisition for allotment of seats to the Head Office.

(6) Ms. Anu Chatrath Kapur, learned Addl. AG Punjab further submits that it is evident from the affidavit that by mistake *qua* the Intelligence Wing, firstly, it had not deducted 10% of the total vacancies and secondly, by mistake 193 vacancies were taken into consideration.

(7) Learned senior counsel appearing for the petitioner, however, submits that if 193 vacancies are taken and 10% out of the same are deducted the total would come to $193 - 19 = 174$. It is urged that 25% is the quota for those who fall in the BPT test. Importantly, the petitioners belongs to this quota and 25% of 174 comes to 43.5.

(8) Learned counsel relies upon the judgment dated 31.10.2013 rendered in **LPA No.1862 of 2013 (Avinash Dhiman & Ors vs. Chandigarh Administration & Ors.)** to urge that 43.5 ought to be considered as 44 seats. He also has brought to the notice of this Court the fact which is not disputed by the State that there are many seats from the 70% quota which are still lying vacant.

(9) Having heard learned counsel for the parties, this Court deems it appropriate to dispose of the writ petition with the following directions:-

(i) the stand of the State in the affidavit dated 17.08.2021, is accepted. However, the Director General of Police, Punjab is directed to issue appropriate instructions/directions to all the Wings to follow uniform guidelines while complying with the Standing Order dated 29.08.2012 (P1).

(ii) Since it has come on record that there are a total of 193 vacant posts of Head Constables as on 31.03.2022, on the same pattern which is followed in the other 3 Wings, it is directed that the Intelligence Wing shall also follow the same pattern and accordingly allocate 44 persons to undergo the lower school course.

(iii) Taking into account the fact that there are total of 44 seats which fall to the quota of 25% out of 193 total vacancies, the respondents are directed to allow petitioners No.2 & 3 to be immediately deputed to the lower school course. The said petitioners are permitted to file an affidavit before the authorities to relieve them of their duties so as to join the said course and also give an affidavit before the Director, PPA, Phillaur regarding the directions given by this Court to permit them to

join the course. On doing so, the Director, PPA shall allow petitioners No.2&3 to participate in the Course, forthwith.

(iv) The Director General of Police, Punjab is directed to issue general guidelines (and take decision in the present case also) to ensure that no seats for the lower school course go unfilled, at any rate. The DGP, Punjab is permitted to issue appropriate orders for the present lower school course to fill up the remaining seats which are lying vacant to be filled up from any of the quotas against 193 vacancies of Head Constables, if so advised, and in this process of consideration, consider the cases of petitioners 1 & 4, in accordance with law.

(10) With these observations and directions, the writ petition stands disposed of.

(11) Let a copy of this order be given to Ms. Anu Chatrath Kapur, Addl. AG Punjab for information and necessary compliance.

06.09.2021
Vvishal

(Girish Agnihotri)
Judge

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

Yes/No
Yes/No